

C. REMARKS

Applicant first most respectfully confirms the Examiner's recitation of the telephone interview following receipt of a restriction requirement. The Examiner's recitation is complete and is on a continuation of the substance of the interview sheet as enclosed with the last Official Action.

The specification amendment required by the Examiner is made herewith.

Appreciation is expressed for the allowance of claim 3. Reconsideration of the rejection of the other claims is most respectfully requested in view of amendments and remarks to follow.

Applicant's ramp is exceedingly simple and has a low profile ladder-style frame and a compact but effective winch assembly on the ladder-style frame.

New claims 6-9 are added. New claim 6 recites the ramp as set up for use and the three claims 7-9 parallel those of claims 4-6 but with broader recitation of the hull roller assemblies.

The 35 U.S.C. 102 Rejection

This rejection of the Official Action uses Urbank against claim 4. Amendments now made to claim 4 especially stress the simplified nature of applicant's new boat ramp. Applicant's ramp is for easy, convenient use. As pointed out at paragraph 4 of the publication of applicant's application, the technology of watercraft parking ramps is extremely highly developed, but applicant's new ramp is of exceedingly simple design and yet highly practical

and reliable and easy to use.

Applicant's design is not that of a trailer for hauling boats around. This point is particularly significant since it seems that the prior art cited by the Examiner always deals with trailers. Applicant's ramp in use has a simplified ladder-style frame that rests directly on earth of a lakeshore with the water-end of the frame extending into the water; see the publication of applicant's application at paragraph 13. Further, to especially emphasize the simplified nature of applicant's boat ramp, the open ended "comprising" has been changed to "consisting essentially of" at the introductory portion of the claim. Additionally, editing has been accomplished consistent with the Examiner's observations at page 5 of the Official Action.

It is most respectfully submitted that Urbank's trailer does not teach or suggest parallel legs for his U-shaped frame 26. Applicant expressly recites and now emphasizes by amendment that the elongated side rails are parallel for applicant's ramp. (There is a sound reason for parallel side rails. The reason is because the length of applicant's side rails can easily be extended to provide ramps for huge boats that need extra long side rails — see paragraph 35 of applicant's published application.)

Still further, applicant's claim 4 precludes the towing tongue and all kinds of other elements of Urbank which interfere with convenient, easy use of a ramp in the manner taught and claimed by applicant. For example, Urbank's upstanding beam for a winch is clearly not capable of satisfying applicant's "upstanding beam mounted at its inner end on a said ladder-style frame at a location inwardly spaced from said shore end so as to slope

upwardly toward said shore end.” The concept of mounting the upstanding beam at its inner end at a location inwardly spaced from the shore end is entirely strange to Urbank, whose beam is actually mounted exteriorly of any conceivable imagination for the shore end of any ladder-style rails attributed to Urbank. Urbank’s beam is mounted on the towing tongue, which is ahead of Urbank’s U-shaped frame for the trailer bed; see FIG. 2 of Urbank.

And finally, in all reality, there is nothing in Urbank that would ever suggest or motivate or furnish any desire that anyone should do what applicant has done.

It is thus most respectfully submitted that the rejection against claim 4 should be withdrawn and the claim allowed.

The 35 U.S.C. 103 Rejections

Here, claims 1, 2, and 5 are rejected as unpatentable over France 2558118 and Carrick U.S. 5,255,933, both of which deal with towing trailers and neither of which contains the slightest suggestion or motivation for anyone to form an exceedingly simplified and easily used shore ramp as taught and claimed by applicant, particularly as applicant’s claims are now amended.

It is first noted that the Official Action specifies that it is interpreting the “ladder-style frame as not necessarily having parallel side rails.” That is a puzzling observation. It is not true when the side rails of the frame must be capable of accepting additional side rails for longer boats as particularly stressed by applicant’s claim 1 as amended, for reasons as noted at paragraph 35 of the publication of this application.

In the Official Action, it appears that the allegation is made that the winch is on rails 1 of FR '118. There are two observations to make, first of all, the winch is not on rails 1, and in fact, the rails 1 of the FR '118 are nothing more than extra side frame members that serve no function whatsoever to support hull roller assemblies — which is totally contrary to applicant's teaching and claims. In other words, an entirely different set of rails in the FR '118 are used to support hull rollers, not rails 1. Applicant's claims have particularly been amended to emphasize over FR '118 in this regard. Applicant's hull roller assemblies are on the side rails of applicant's ladder frame.

Another observation is that the rails 1 of FR '118 are totally remote from (and not relevant to) any rail and cross beam arrangement in the reference as illustrated in its FIGS. 4, 5, and 6.

Yet another observation should be made: The winch of FR '118 is not mounted on any ladder-style frame, but instead is mounted on a frame structure entirely separate from the ladder-style frame.

The basic problem with this Section 103 rejection is that the references lead the person of ordinary skill in the art to make supremely cluttered products, which is entirely contrary to applicant's thrust for extraordinary simplicity.

Hindsight does not solve the problem of finding anything in the art that would suggest applicant's utter simplicity instead of the clutter taught by the art. In other words, the art does not contain any suggestion or desire or motivation to arrive at applicant's peculiarly

simplified ramp that has a ladder-style frame that rests on the earth per se and has a winch assembly directly on that ladder-style frame itself.

The observations in the Official Action dealing with disassembly and re-assembly and assembly line production are most respectfully submitted to be only of general interest. Applicant's teaching provides for convenient (i.e., simple) assembly by a customer-user — a feature not at all suggested by the references.

Appreciation is expressed to the Examiner for observations made at page 5 of the Official Action.

It is respectfully submitted that the references used in this Section 103 rejection are exceedingly complex and contain nothing to suggest or motivate one toward what applicant teaches and claims.

What applicant has is extraordinary and unheard of simplicity for boat ramps in an extremely crowded field of art.

All above Section 103 comments apply also with special force against the prior art when considering new claims 6-9, inclusive.

Nothing has been supplied and nothing is known that would suggest applicant's direct resting of a ladder-style frame on earth of a lakeshore with the water end of the frame extending into the lake water and with other features in applicant's claims, including the compact special arrangement and positioning of the winch assembly in the ladder-style frame combinations claimed.

The CCPA years ago — in *In re O'Keefe*, 40 CCPA 879, 202 F.2d 767, 97

USPQ 157, 161 (CCPA 1953) — relied upon the Supreme Court in stating the following:

Invention may be involved in the development of a crowded art by a change in the proportions of a critical element of an operating device. *Eibel Co. v. Paper Co.*, 261 U.S. 45. There Chief Justice Taft, in writing the opinion for a unanimous court, pointed out that the disclosure of a meritorious improvement on a machine, substantially advancing the art, is entitled to a liberal construction.

Interconnect Planning Corp. v. Feil, 227 USPQ 543, 547, 551 (Fed. Cir.

1985) tells us that, in applying references, the claimed invention must be evaluated as a whole and also the references must be evaluated as a whole..

Noteworthy here is an observation such as made in the case of *In re Deminski*, 230 USPQ 313, 315-316 (Fed. Cir. 1986), namely:

There is nothing in the prior art references, either singly or in combination, “to suggest the desirability, and thus the obviousness,” of designing the valve assembly so that it can be removed as a unit.

* * *

There was no suggestion in the prior art to provide Deminski with the motivation to design the valve assembly so that it would be removable as a unit. The board argues that if Pocock had followed the “common practice” of attaching the valve stem to the valve structure, then the valve assembly would be removable as a unit. The only way the board could have arrived at its conclusion was through hindsight analysis by reading into the art Deminski’s own teachings. Hindsight analysis is clearly improper, since the statutory test is whether the “subject matter as a whole would have been obvious at the time the invention was made.” [emphasis supplied]

Especially relevant regarding applicant’s functional clauses is the case of *In re Miller*, 46 USPQ 164 (CCPA 1969), where the court held that it was not structural but functional relationships involved in the invention that made for patentability. Elements may


function independently. *Ex parte Adams et al.*, 177 USPQ 21 (Patent Office Board of Appeals 1972).

These principles have survived *Dickinson v. Zurko*, 527 U.S. 150, 50 USPQ2d 1930 (1999), and remain in force as noted in *In re Lee*, 61 USPQ2d 1430, 1433, 1434 (CAFC 2002).

In short, it is most respectfully emphasized that applicant's simple and effective and reliable and easily used shore ramp has the characteristics of being the antithesis of the prior art.

In light of the foregoing, applicant most respectfully requests reconsideration and early favorable action of allowance.

Respectfully submitted,

Date: 29 March 2005 
Robert C. Baker
Attorney of Record
200 TCF Bank Building
12751 Nicollet Avenue
Burnsville, Minnesota 55337
Phone: (952) 882-9040
Fax: (952) 882-9038